

REMARKS/ARGUMENTS

The rejections presented in the Office action dated December 23, 2010 (hereinafter Office action), have been considered. Reconsideration of the pending claims and allowance of the application in view of the present response is respectfully requested.

With respect to the § 112, second paragraph, rejection, the phrase “at least two thresholds” in claim 1 has been moved to improve readability of the claim. Since the scope of the claim would be readily understandable by one skilled in the art, Applicant requests that the rejection be withdrawn.

Applicant respectfully traverses each of the prior art (§§ 102(b) and 103(a)) rejections based upon the teachings of U.S. Patent No. 5,070,527 to Lynn (hereinafter “Lynn”) because Lynn does not teach or suggest each of the claimed features. For example, Lynn does not teach or suggest that a short time interval operation and a long time interval operation are independently controlled, as claimed in the independent claims. Rather, Lynn teaches that the threshold operations are based on pre-selected time intervals (Col. 3, lines 51-66) and not independently controlled (Col. 4, lines 25-45). The subsequent compression threshold operation is not performed until the initial compression threshold operation is performed; thus, the use of the word “initial”.

Moreover, the assertion that the cited portion at Col. 4, lines 37-42, describes a maximum power level for short time interval operation is misleading. In contrast, lines 37-42, teach that the incoming signal is analyzed to determine whether a voice signal is continuously present, and if the system determines that a voice signal is present, the compression level is lowered. This is further described at Col. 3, lines 39-45, where a continuous tone (*e.g.*, speech) is lowered in dB scale. In contrast to the claims, Lynn is directed to identifying speech utterances based on tone duration and resetting compression for speech signals such that speech in headsets is perceived at natural levels and protected against loud noises. There is no teaching or suggestion that 99dB would be a maximum power level for operation; instead, Fig. 1B uses that level as an example to illustrate that after a certain continuous tone duration, the compression is lowered approximately ten dB. Since Lynn has not been shown to teach or suggest each of the claimed features, the prior art rejections are improper.

With particular respect to the § 102(b) rejection, to anticipate a claim the asserted reference must teach every element of the claim. “A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The Federal Circuit also recently held that “Because the hallmark of anticipation is prior invention, the prior art reference—in order to anticipate under 35 U.S.C. § 102—must not only disclose all elements of the claim within the four corners of the document, but must also disclose those elements ‘arranged as in the claim.’” (*Net Moneyin, Inc. v. Verisign, Inc.*, 545 F.3d 1359, 2008 WL 4614511 (Fed. Cir. 2008) quoting *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 1548 (Fed. Cir. 1983)). Therefore, all claim elements and their features, must be found in the prior art reference to maintain the rejection based on 35 U.S.C. § 102. Applicant respectfully submits that Lynn does not teach every element of independent claims 1, 8, 11, and 14 in the requisite detail and therefore fails to anticipate claims 1, 2, 4-8, and 11-14.

Dependent claims 2, 4-7, 12, and 13 depend from independent claims 1, 11, and 14, respectively, and also stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Lynn. While Applicant does not acquiesce with the particular rejections to these dependent claims, these rejections are also improper for the reasons discussed above in connection with the independent claims. These dependent claims include all of the features of their respective base claims and any intervening claims and recite additional features which further distinguish these claims from the cited reference. Therefore, the rejection of dependent claims 2, 4-7, 12, and 13 is improper, and Applicant requests that the rejection be withdrawn.

Since the rejection of dependent claims 3 and 15-22 is also based primarily on the teachings of Lynn, and as these claims are dependent from the independent claims addressed above, claims 3 and 15-22 are also patentable over Lynn. Applicant accordingly requests that the § 103(a) rejection be withdrawn.

It should be noted that Applicant does not acquiesce to the Examiner’s statements or conclusions concerning what would have been obvious to one of ordinary skill in the art, obvious design choices, inherent, common knowledge at the time of Applicant’s invention,

officially noticed facts, and the like. Applicant reserves the right to address in detail the Examiner's characterizations, conclusions, and rejections in future prosecution.

Authorization is given to charge Deposit Account No. 50-3581 (IHN.093.WUS) any necessary fees for this filing. If the Examiner believes it necessary or helpful, the Examiner is invited to contact the undersigned attorney to discuss any issues related to this case.

Respectfully submitted,

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